

**Notice of Allowability**

Application No.

10/683,819

Examiner

Nicholas D. Rosen

Applicant(s)

BURCHETTA ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of December 28, 2006.
2. ☒ The allowed claim(s) is/are 218-229, 248-274, 285-293, 301-312 and 320-326.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.  |

*Nicholas D. Rosen*  
**NICHOLAS D. ROSEN**  
**PRIMARY EXAMINER**

### DETAILED ACTION

Claims 218-229, 248-274, 285-293, 301-312, and 320-326 have been examined.

#### *Examiner's Amendment*

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Richard Kurtz on March 14, 2007.

The application has been amended as follows: Claims 230-247, 275-284, 294-300, 313-319, and 327-337 are hereby cancelled without prejudice or disclaimer.

A correction is made to claim 248: In the sixth line of claim 248, "demands" is hereby corrected to "**demand**".

A correction is made to claim 262: In the sixth line of claim 262, a **comma** is hereby inserted after "non-equal values".

A correction is made to claim 269: In the ninth line of claim 269, "with either an indication" is hereby corrected to "**with an indication**".

A correction is made to claim 285: In the twentieth line of claim 285, after "second entity" the comma and period are hereby replaced **by a semicolon**.

***Allowable Subject Matter***

Claims 218-229 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Zeng et al. ("Double-offer Arbitration"), discloses a method comprising evaluating a pair of values for a claim in a round of at least two rounds; and determining that the pair of values satisfies at least one settlement criterion (section 2.2; pages 149-150). Zeng does not expressly disclose communicating a settlement message if the at least one settlement criterion is satisfied, but does disclose reaching a settlement, which would be pointless if the disputants were not informed of the settlement; hence, communicating a settlement message is inherent. Zeng does not disclose using a computer, but Zeng's dispute settlement can be called an automated method on the ground that once the values have been submitted, a prescribed process is carried out without further call for human initiative, and it is in any case well known to use computers to compare numbers and perform calculations. Zeng does not disclose offering the plurality of disbursement options for the settlement payment, and having the first entity select one from among the plurality of the disbursement options for the settlement payment, but Attrino ("P-C Agents Issue Checkbook Claims") teaches making an offer to select from a plurality of disbursement options to be paid, and having the entity to be paid select from among the plurality of disbursement options for the settlement payment. However, Zeng's method involves a non-disputant party using human discretion and judgment (in choosing the parameter  $\alpha$ ; see pages 150-151). The method taught by Brams and Merrill (Figure 1 on page 142) also involves an

arbitrator exercising human discretion and judgment (in choosing a or b as the settlement if m is rejected). Thiessen (U.S. Patent 5,495,412) discloses an automated method of dispute resolution, but in a quite different context, which cannot be readily combined with the teaching of Zeng.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 248-261 are allowed.

Claims 262-268 are allowed.

Claims 269-274 are allowed.

Claims 285-293 are allowed.

Claims 320-326 are allowed.

The following is an examiner's statement of reasons for allowance (regarding claim 248 and its dependents especially): The closest prior art of record, Brams and Merrill ("Arbitration Procedures with the Possibility of Compromise"), discloses a dispute settlement method comprising: receiving a claim submitted by an initiator for a dispute resolution negotiation, receiving a first value from the initiator and a first value from a second entity, adverse to the initiator for the claim, the first value from the initiator and the first value from the second entity differing from each other by a differential amount; comparing the differential amount against a predetermined settlement criterion;

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determining that the predetermined settlement criterion is satisfied by the differential amount; and informing the initiator and the second entity of the settlement payment (pages 132-134, with inherency). However, Brams and Merrill do not disclose calculating a settlement payment using the first values such that the initiator receives a windfall benefit, nor does any other prior art of record teach or reasonably suggest this (in particular, Zeng does not). The nearest approach is Low ("Mediation vs. Litigation: How You Can Cut Costs"), which teaches that it is generally to one's advantage to initiate the mediation.

Claim 262 differs from claim 248 in some respects, but recites a similar limitation regarding a windfall adjustment to a binding settlement payment, which is likewise not disclosed by Brams and Merrill, Zeng, or any other prior art of record; therefore, claims 262-268 are allowable.

Claim 269 differs from claim 248 in some respects, but recites a similar limitation regarding a windfall adjustment, here expressed as "a settlement payment amount which reflects a higher amount relative to a normal payment amount, because the claimant is the initiator," which is likewise not disclosed by Brams and Merrill, Zeng, or any other prior art of record; therefore, claims 269-274 are allowable.

Claim 285 differs from claim 248 in some respects, but recites a similar limitation regarding a windfall adjustment to a binding settlement payment, which is likewise not disclosed by Brams and Merrill, Zeng, or any other prior art of record; therefore, claims 285-293 are allowable.

Claim 320 differs from claim 248 in some respects, but recites a similar limitation regarding a windfall adjustment to a binding settlement payment, which is likewise not disclosed by Brams and Merrill, Zeng, or any other prior art of record; therefore, claims 320-326 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 301-312 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Zeng et al. ("Double-offer Arbitration"), discloses a system for dispute resolution comprising a series of demands to satisfy a claim and a series of offers to settle the claim (section 2.2, pages 149-150 pages 132-134). Zeng does not disclose the settlement value equal to the demand, if the offer is the same as or greater than the demand (unless the offer equals the demand), but Brams and Merrill teach this (page 134). However, neither Zeng et al., nor Brams and Merrill, nor any other prior art of record, disclose that the settlement value is equal to a first amount, in accordance with a first preestablished formula, if the offer is less than the demand and within a preestablished percentage of the demand, or a second amount in accordance with a second preestablished formula, if the difference between a particular offer and the

corresponding demand is less than a preestablished amount, nor does any other prior art of record teach this.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith, can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Nicholas D. Rosen*

NICHOLAS D. ROSEN  
PRIMARY EXAMINER

March 14, 2007